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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,051	07/30/2007	Matthieu Helft	1022702-000151	6187

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BUCHANAN, INGERSOLL & ROONEY PC  
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EXAMINER
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LISTVOYB, GREGORY

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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11/06/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,051	<b>Applicant(s)</b> HELT ET AL.	
	<b>Examiner</b> GREGORY LISTVOYB	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19,22-40 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19,23-25 and 27-40 is/are rejected.
- 7) ☒ Claim(s) 22,26 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 19, 23-25, 27-40, 43 rejected under 35 U.S.C. 102(b) as being anticipated by Bentley et al (US 4102846) herein Bentley.

Bentley discloses a process for preparing spherical polyamide particles having a mean diameter of less than 1 mm (Abstract, 1 um, see Example 1, meeting the limitations of claims 35-40), comprising the following steps:

a) preparing a dispersion of a first liquid which comprises polyamide monomers, such as lactam (see Example 1), Nylon 6,6 salt (the same as one in the Application examined, both monomeric systems meet limitations of claim 23), in a high boiling hydrocarbon at atmospheric or excessive pressure (the boiling point exceeds 150C, meeting the limitations of Claims 24-25 and 27, see Examples);

b) polymerizing the monomers by polycondensation by heating the reaction medium and maintaining the heating at a temperature below the melting point of the polyamide with the desired degree of polymerization (see Examples) for 35 min, while

Art Unit: 1796

distilling out forming water in azeotrope (see Examples) at atmospheric pressure (meeting the limitations of claim 27).

e) recovering the spherical polyamide particles therefrom (see Column 11, line 45).

Note that limitations c) and d) of claim 19 are optional.

Bentley teaches that the monomers can be represented by solid or liquid, forming dispersion or emulsion in the inert solvent (see Column 6, line 65). In the case of emulsion the new limitations of claim 1, claiming two essentially immiscible phases, liquid represented by monomer itself. Monomers in Bentley's disclosure can exist in both solid and liquid form, forming emulsion or dispersion. The only condition regarding the first liquid is that it should comprise a monomer. Therefore, first liquid can be represented by the liquid monomer itself.

Also note that Bentley discloses that one monomer should exist in solid form. However, Bentley teaches that two or more monomers can participate in the polycondensation process (see Column 8, line 65).

Regarding claims 28 -30, Bentley teaches temperature of step b) above 150C, i.e. 170-183C (see Example 1), where azeotrope of the solvent and unreacted monomers are removed over period of 35 min (see Example 1).

***Allowable Subject Matter***

Claims 22, 26 and 43 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 7/23/2009 have been fully considered but they are not persuasive.

Regarding Bentley, Applicant argues that since the dispersing agent is soluble in the inert organic liquid (as mentioned in col. 1, lines 67- 68 of Bentley et al), any first and second liquid, as defined in claim 19, cannot be considered as immiscible according to the teachings of Bentley et al. Applicant submits that one of the Bentley's monomer is solid

Examiner disagrees. Monomers in Bentley's disclosure can exist in both solid and liquid form, forming emulsion or dispersion. The only condition regarding the first liquid is that it should comprise a monomer. Therefore, first liquid can be represented by the liquid monomer itself. In addition, Bentley teaches that two or more monomers (i.e.

Art Unit: 1796

solution of one monomer in a solvent, which represents by another monomer) can participate in the polycondensation process (see Column 8, line 65).

Examiner agrees with Applicant's arguments regarding Okazaki, Ohara and Montasser. As a result, the corresponding rejections have been withdrawn.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY LISTVOYB whose telephone number is (571)272-6105. The examiner can normally be reached on 10am-7pm.

Art Unit: 1796

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James J. Seidleck/  
Supervisory Patent Examiner, Art Unit 1796  
GL